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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/752,136	12/27/2000	Steven E. Warner	12052-04000	5439

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EXAMINER

CHARLES, MARCUS

ART UNIT PAPER NUMBER

3682

DATE MAILED: 09/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/752,136

Applicant(s)

WARNER ET AL.

Examiner

Marcus Charles

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 18-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-10 and 13-17 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 December 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4-7.                      6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the first action with merit relating to application serial number 09/752,136 filed 12-27-2002.

#### ***Election/Restrictions***

1. Applicant's election of invention I in Paper No. 9 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). In addition, application argument relating claims 14-17 has been considered and was found to be persuasive. Claims 14-17 have been rejoined to claims 1-13 and 17 and will be prosecuted as the elected invention.

#### ***Drawings***

2. The draftsman has approved the drawing filed with this application as formal drawing.
3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the vehicle" and "the rotational member is an engine" as in claims 9, 10 and 13, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 7, 9-10, 13-15, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Smyth et al.('071). Smyth et al. discloses a variable speed drive system comprising a rotational member (10), a controllable pulley (11) in rotational communication with the rotational member, the controllable pulley includes a first moveable flange (43) and a corresponding adjustable pitch radius, an auto tensioning pulley (13) driven by the controllable pulley via a first belt (12), the auto-tensioner has a variable pitch section which is infinite variable between a minimum and maximum pitch ratio, an actuating system (49), which is a spring that generates a linear force parallel to the direction of the first moveable flange for moving the first moveable flange (43) and a compressor (32) driven by the auto-tensioning pulley via a second belt (31).

Regarding claims 9 and 10, Smyth et al. clearly discloses that the system is that of a vehicle (col.1, lines 21-26).

In claim 13, note the rotational member comprises an engine (E).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyth et al. in view of Spiess et al.('876). Smyth does not disclose that the actuating system comprises a hydraulic pump, a control valve and hydraulic fluid operated by a piston connected to the moveable flange. Spiess et al. discloses a CVT comprising hydraulic pump (20) a control valve (160), a hydraulic operated piston (see piston chambers 13, 17) connected to the moveable flange (40) in order to control the flange more efficiently such that the movement can be controlled and detect through very small changes. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the actuating system of Smyth et al. from a spring to the actuating system of Spiess et al. in order to control the flange more efficiently such that the movement can be controlled and detect through very small changes.

8. Claim 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smyth et al. in view of Roovers et al. Smyth et al. does not disclose a control logic module (12, fig.2). Roovers et al. discloses a control logic module for regulating the required pressure on the movable sheave. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to provide Smyth et al. device with a

control logic module in view of Roovers et al. for regulating the required pressure on the movable sheave.

9. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smyth et al. in view of Stevens et al.('889). Smyth et al. does not disclose the auto-tensioning pulley comprises an auto-tensioning device, which is a spring. Stevens et al. discloses an auto-tensioning pulley (24) comprising an auto-tensioning device, which is a spring in order to effectively control and dampen the tensioning force on the belt during high and fluctuating loads. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the pulley of Smyth et al. to include the limitation of Stevens et al. in order to effectively control and dampen the tensioning force on the belt during high and fluctuating loads.

10. Claims 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Smyth et al. in view of Spiess et al. as applied to claim 1 above, and further in view of Roovers et al.('416). Smyth et al. and spies et al. do not disclose a control logic module (12, fig.2). Roovers et al. discloses a control logic module for regulating the required pressure on the movable sheave. Therefore, it would been obvious to one of ordinary skill in the art at the time of the invention to provide Smyth et al. device with a control logic module in view of Roovers et al. for regulating the required pressure on the movable sheave.

***Allowable Subject Matter***

11. Claim11 and 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


**Conclusion**

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Czarka('033), Seigal('787), Wagner et al.('661), FR('2675225) and JP(03-9150) disclose a pulley having two belt engaging surfaces. Shimzu('705) discloses a variable pulley having a piston (104) connected to a moveable shaft. Ito et al.(916) and Sugaya et al.('119) disclose a CVT with a hydraulic system. Spencer et al.('230) discloses a transmission with a control logic module.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marcus Charles whose telephone number is (703) 305-6877. The examiner can normally be reached on Monday -Thursday 7:30 am-600 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

  
Marcus Charles  
Examiner  
Art Unit 3682  
September 23, 2002